

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

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IN THE MATTER OF: :  
 :  
H & Y Chun Corporation :  
t/a Michigan Liquors :  
3934 12th Street, NE :  
Retailer A : Show Cause  
License No. 23640 : Hearing  
Case No. 12-CMP-00383 :  
ANC 5B :  
Permitted the Sale of Alcoholic :  
Beverages on Credit :  
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MAY 1, 2013

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Ruthanne

Miller, Chairperson, presiding.

PRESENT  
RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HERMAN JONES, Member

MICHAEL SILVERSTEIN, Member

ALSO PRESENT  
FERNANDO RIVERO, OAG  
BRIAN MOLLOY, ABRA

T-A-B-L-E O-F C-O-N-T-E-N-T-S

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P-R-O-C-E-E-D-I-N-G-S

1:42 p.m.

CHAIRPERSON MILLER: Okay. Good afternoon. I'm going to call the first case on the afternoon calendar, and that is Case No. 12-CMP-00383, Michigan Liquors.

You can come forward if you're on this case.

The address is 3934 12th Street, N.E., License No. 23640 in ANC 5B.

MR. RIVERO: Good morning, Board Members. Fernando Rivero for the District of Columbia.

CHAIRPERSON MILLER: Good morning. Good afternoon.

MR. RIVERO: Oh, good afternoon. I'm sorry.

(Laughter.)

CHAIRPERSON MILLER: And, sir, would you identify yourself for the record?

MR. CHUN: Me?

CHAIRPERSON MILLER: Yes.

1 MR. CHUN: I'm owner of the  
2 Michigan Liquor Store.

3 CHAIRPERSON MILLER: And what's  
4 your name?

5 MR. CHUN: Heung, H-E-U-N-G, is my  
6 first name. Last name is C-H-U-N.

7 CHAIRPERSON MILLER: Okay. Thank  
8 you. All right. So this is a show cause  
9 hearing. Are there any preliminary matters in  
10 this case?

11 MR. RIVERO: No, the parties did  
12 not have an agreement to resolve this case, so  
13 we are here for an evidentiary hearing.

14 CHAIRPERSON MILLER: Okay. So,  
15 Mr. Chun, have you been here before for an  
16 evidentiary hearing?

17 MR. CHUN: No, this is my first  
18 time.

19 CHAIRPERSON MILLER: Okay. So I'm  
20 just going to tell you the procedure. The  
21 Government has the burden of proof, so the  
22 Government goes first in presenting the case

1       against you. And the Government can do that  
2       by calling a witness who will be sworn in and  
3       present testimony, and Mr. Rivero will  
4       question the witness. And then you will have  
5       an opportunity afterwards to cross-examine or  
6       question the witness on his testimony. And  
7       the Board Members will also have an  
8       opportunity to do that. And Mr. Rivero can  
9       also put documents into evidence. And  
10      evidence is what the Board will consider. And  
11      if you have an objection to the evidence, you  
12      can say so.

13                   MR. CHUN: Okay.

14                   CHAIRPERSON MILLER: And then it  
15      will be your turn to put your case on. If you  
16      want to testify yourself or if you have  
17      witnesses or documents, it's your opportunity  
18      to do that. Same with questions from Mr.  
19      Rivero and Board Members. And then you can --  
20      Mr. Rivero most likely will, but is not  
21      required to, do an opening statement at the  
22      beginning, and you can do an opening statement

1 at the beginning of your case as well, which  
2 is not required. It describes what you're  
3 going to prove or show. And then at the end  
4 you have the opportunity to do closing  
5 statements summarizing the evidence that you  
6 produced, if you want. None of it is  
7 required.

8 Okay. Do you have any questions?

9 MR. CHUN: Yes, ma'am, I fully  
10 understood.

11 CHAIRPERSON MILLER: Okay. And if  
12 you have any questions as we go along, just  
13 let me know. Okay. Thank you.

14 Mr. Rivero, we're ready.

15 MR. RIVERO: Thank you. Good  
16 afternoon, Board Members.

17 CHAIRPERSON MILLER: Okay.

18 MR. RIVERO: We're here today on  
19 the show cause matter of H & Y Chun  
20 Corporation, trading as Michigan Liquors. The  
21 show cause notice issued in this matter  
22 concerns the charge that the Licensee

1 permitted the sale of alcoholic beverages on  
2 credit in violation of D.C. Official Code 25-  
3 734 of the 2001 edition.

4 It's our belief that by a  
5 preponderance of the evidence, based on the  
6 testimony of our witness, ABRA Investigator  
7 Molloy, will show that the Licensee did in  
8 fact commit such a sale to take place. And  
9 that is my statement. And we have one witness  
10 today.

11 CHAIRPERSON MILLER: Okay. Why  
12 don't you call your witness then?

13 MR. RIVERO: Okay. The Government  
14 would call Investigator Molloy to the stand.

15 CHAIRPERSON MILLER: Good  
16 afternoon. Do you swear to tell the truth,  
17 the whole truth, nothing but the truth?

18 INVESTIGATOR MOLLOY: I do.

19 CHAIRPERSON MILLER: Okay. Thank  
20 you.

21 MR. RIVERO: Good afternoon.

22 INVESTIGATOR MOLLOY: Good

1 afternoon.

2 MR. RIVERO: Would you please  
3 state your name?

4 INVESTIGATOR MOLLOY: My name is  
5 Brian Molloy. Last name is M-O-L-L-O-Y.

6 MR. RIVERO: Thank you. Mr.  
7 Molloy, what is your occupation?

8 INVESTIGATOR MOLLOY: I'm an ABRA  
9 investigator.

10 MR. RIVERO: Okay. And you work  
11 for?

12 INVESTIGATOR MOLLOY: The Alcohol  
13 Beverage Regulation Administration.

14 MR. RIVERO: Okay. And what are  
15 your duties as an ABRA investigator?

16 INVESTIGATOR MOLLOY: ABRA  
17 investigators investigate and inspect licensed  
18 establishments within the District of  
19 Columbia.

20 MR. RIVERO: Okay. Are you  
21 familiar with an establishment known as  
22 Michigan Liquors?

1 INVESTIGATOR MOLLOY: Yes, I am.

2 MR. RIVERO: Okay. And did you  
3 have occasion in the last year or so to visit  
4 the establishment?

5 INVESTIGATOR MOLLOY: I did. On  
6 August 1st, 2012 I conducted a regulatory  
7 inspection at the establishment.

8 MR. RIVERO: Okay. Were you there  
9 by yourself?

10 INVESTIGATOR MOLLOY: I was not.  
11 At the time I was training, so ABRA  
12 Investigator Vincent Parker came with me.

13 MR. RIVERO: Okay. And why don't  
14 you tell us what happened when you got to the  
15 establishment?

16 INVESTIGATOR MOLLOY: All right.  
17 When I walked in the establishment with  
18 Investigator Parker, I identified myself and  
19 Investigator Parker as ABRA investigators and  
20 I asked to the owner or ABC licensed manager.  
21 It was at that point I was introduced to Mr.  
22 Chun as the owner. And then I began

1 conducting a regulatory inspection, which  
2 involves asking several questions to the owner  
3 and also getting information off some of their  
4 licenses.

5 While I was conducting the  
6 regulatory inspection, a male customer came in  
7 and came to the counter and asked to pay off  
8 his tab. And during this whole encounter I  
9 was at most two steps away from the counter  
10 and Vincent Parker, Investigator Parker was  
11 standing next to the counter.

12 The owner at first seemed like he  
13 wasn't aware about the tab and the customer  
14 pointed to a piece of paper that was on the  
15 counter at the time and said that he had a tab  
16 and the info was on that piece of paper at  
17 which point the customer then gave the owner  
18 an amount of money, some cash. The owner  
19 conducted a transaction on the register and  
20 gave the customer some change back at which  
21 point Investigator Parker started talking with  
22 the customer and asked him what the

1 transaction was about. The customer stated  
2 that he had come in the day before and bought  
3 a bottle of vodka on credit, or on his tab  
4 because he was a regular customer and he was  
5 allowed to do that there.

6 Vincent Parker at that point I  
7 believe ended his conversation after he  
8 confirmed that the patron was just paying off  
9 his tab, and the patron left. And then  
10 Investigator Parker started talking with the  
11 owner to question him about the tab  
12 transaction and informing him that it was  
13 against D.C. Official Code to sell to  
14 customers on credit.

15 MR. RIVERO: Okay. And was there  
16 any response from the owner when Mr. Parker  
17 communicated this?

18 INVESTIGATOR MOLLOY: Yes, the  
19 owner stated that he was not aware of this tab  
20 transaction, that it must have been another  
21 one of his employees who sold to the customer  
22 the day before on tab and he -- and, yes, he

1 didn't know anything about it.

2 MR. RIVERO: Okay. What happened  
3 after that?

4 INVESTIGATOR MOLLOY: After  
5 Investigator Parker informed the owner that it  
6 was a violation of D.C. Official Code, I  
7 continued my regulatory inspection. I found  
8 no other ABRA violations. I finished my  
9 regulatory inspection, the owner signed it,  
10 and I left the establishment with investigator  
11 Parker.

12 MR. RIVERO: Okay. And you  
13 testified to a piece of paper. Were you able  
14 to observe it?

15 INVESTIGATOR MOLLOY: Yes, I saw  
16 the piece of paper that the patron had pointed  
17 to on the counter.

18 MR. RIVERO: Okay. Thank you. No  
19 further questions at this time.

20 CHAIRPERSON MILLER: Do you have  
21 any questions, Mr. Chun, for Mr. Molloy?

22 MR. CHUN: To him?

1 CHAIRPERSON MILLER: Who, me?

2 MR. CHUN: But you never -- you --  
3 did you see the slip, they mark the Michigan  
4 Liquor Store slip?

5 CHAIRPERSON MILLER: I'm sorry.  
6 Wait, can you -- I couldn't hear the question.

7 MEMBER SILVERSTEIN: We couldn't  
8 hear your question. Could you move the --  
9 thank you.

10 MR. CHUN: You say you have some  
11 kind of slip, but did you see they have write  
12 it down for Michigan Liquor Store? Is write  
13 it down over there?

14 INVESTIGATOR MOLLOY: If you're  
15 referring to the note that was on the counter,  
16 I didn't see what was written on it. I just  
17 saw that it was on the counter.

18 MR. CHUN: Okay. That's all.

19 CHAIRPERSON MILLER: That's all?  
20 Okay. Any Board questions?

21 (No audible response.)

22 CHAIRPERSON MILLER: No. Thank

1 you very much. Oh, I'm sorry, Mr. Rivero.

2 Redirect?

3 MR. RIVERO: Absolutely.

4 CHAIRPERSON MILLER: Okay.

5 MR. RIVERO: Thank you. You  
6 indicated that you saw cash exchange hands?

7 INVESTIGATOR MOLLOY: That's  
8 correct.

9 MR. RIVERO: Please identify from  
10 who to whom the cash flowed.

11 INVESTIGATOR MOLLOY: The patron  
12 gave cash to Mr. Chun, the owner, and the  
13 owner then conducted a transaction on his  
14 register and gave cash back to the patron.

15 MR. RIVERO: From the cash  
16 register?

17 INVESTIGATOR MOLLOY: Yes.

18 MR. RIVERO: Thank you. No  
19 further questions.

20 MR. CHUN: Uh --

21 CHAIRPERSON MILLER: No. No, he  
22 has the last redirect. You have a chance to

1 testify though.

2 MR. CHUN: Myself?

3 CHAIRPERSON MILLER: Yes, you will  
4 have a chance to testify when he's done.

5 MR. CHUN: Okay. Since --

6 CHAIRPERSON MILLER: No, not yet.  
7 Not yet. I'll tell you when. Okay.

8 MR. RIVERO: I'm done, thank you.

9 CHAIRPERSON MILLER: Are you done?

10 MR. RIVERO: Yes.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you very much.

13 INVESTIGATOR MOLLOY: Thank you.

14 CHAIRPERSON MILLER: You don't  
15 have any exhibits?

16 MR. RIVERO: No documents to  
17 introduce, no.

18 CHAIRPERSON MILLER: Okay. Mr.  
19 Chun, so this is now your case to make. And  
20 what I said earlier was if you want to give an  
21 opening statement like Mr. Rivero did, you  
22 can, saying what you're going to prove, or you

1 can just testify. I assume you don't have any  
2 witnesses with you.

3 MR. CHUN: Okay.

4 CHAIRPERSON MILLER: I have to  
5 swear you in though. You want to --

6 MR. CHUN: Sorry?

7 CHAIRPERSON MILLER: I need to  
8 swear you in.

9 MR. CHUN: Okay.

10 CHAIRPERSON MILLER: Do you swear  
11 to tell the truth, the whole truth --

12 MR. CHUN: I do.

13 CHAIRPERSON MILLER: -- nothing  
14 but the truth?

15 MR. CHUN: I do.

16 CHAIRPERSON MILLER: Okay. Would  
17 you like to stay there at your table?

18 MR. CHUN: Yes, ma'am.

19 CHAIRPERSON MILLER: Okay.

20 MR. CHUN: Since 1995 I have owner  
21 of the -- this -- owner of -- I buy, I'm owner  
22 of the store which is Michigan Liquor Store.

1 Just after almost 18 year I never had  
2 violation. I respect regulation and the law.  
3 And since after he left, the investigator  
4 left, next day I looking for what's going on.  
5 So at that time I wasn't there, you know, the  
6 credit happen. I didn't there.

7 So the day work person, I ask him.  
8 He said he don't give any credit to the  
9 person. So what's going on? Why they give it  
10 to the -- so he is a friend each other. My  
11 employee give it \$2. Then next day the guy  
12 customer give it to -- back to him. But at  
13 the time my employee not work at the time.  
14 This is -- Michigan Liquor Store is not  
15 involved for the credit.

16 MEMBER SILVERSTEIN: Say again,  
17 please?

18 MR. CHUN: Michigan Liquor Store,  
19 my store is -- doesn't not involve for the  
20 credit situation. This is a business -- this  
21 is a person-to-person business inside the  
22 account. But my employee's name is Robert

1 Adler, but he said -- I said you don't have  
2 any right to give -- do credit any other  
3 persons, because the thing is not belong to  
4 him. Just that he work for the retail -- what  
5 is that, work for there. So he don't have no  
6 right give it to anybody to credit.

7 So, okay. So I have to wait for  
8 the -- I have a witness at the time, give the  
9 \$2 for that. But the investigator work, and  
10 I work by myself. I have to deal with the  
11 investigate. I will have to deal with the  
12 customer. The guy is coming still there. I  
13 don't know why you give it to me \$2. He  
14 didn't say anything \$2. Leave it on the count  
15 he left, too. But I hold here. I don't know  
16 what is going on, but at the time investigator  
17 see the situation. Then he said I'm violate.  
18 At the time I don't know what kind of violate  
19 I had.

20 So all I can say is I respect all  
21 kind law, regulation, because that's why -- I  
22 have a one thing give it to me. I give it to

1 you, show it to you. Can I give to this?

2 CHAIRPERSON MILLER: Show it to  
3 Mr. Rivero first --

4 MR. CHUN: Yes, this --

5 CHAIRPERSON MILLER: -- and see if  
6 he has an objection.

7 MR. CHUN: I think it's a sting  
8 operation. I think couple of -- it's ABC  
9 supposed to send it to -- the person minor.  
10 Then they try purchase. Whenever they come,  
11 I'm denied, I'm refused and the let him go.  
12 That's why congratulation for the -- from the  
13 ABC Board. So what they mean is not this  
14 company, but I'm respectful the law.

15 CHAIRPERSON MILLER: Is that  
16 something you want to put in evidence for your  
17 case?

18 MR. CHUN: No. And I have a --  
19 for two person's statement, for the one person  
20 -- for the -- my employee, one first of the  
21 person who purchase for the credit-kind of a  
22 stuff person. This is my evidence and I have

1 one witness come to here for the verify that.

2 CHAIRPERSON MILLER: You have a  
3 witness?

4 MR. CHUN: Yes.

5 CHAIRPERSON MILLER: You want to  
6 call your witness?

7 MR. CHUN: Yes, ma'am.

8 CHAIRPERSON MILLER: Do you have  
9 an objection?

10 MR. RIVERO: Before we do that,  
11 I'm not sure there's an attempt being made  
12 right now to introduce anything into evidence,  
13 and we should clarify that.

14 CHAIRPERSON MILLER: Okay. So as  
15 of now those documents aren't evidence. You  
16 would have to ask that they be admitted into  
17 evidence.

18 MR. CHUN: This is not --

19 CHAIRPERSON MILLER: And Mr.  
20 Rivero -- not yet. Mr. Rivero would have an  
21 opportunity to object or not object. And then  
22 I would rule on whether they can be admitted

1       into evidence, you know, if they're found to  
2       be relevant or if there's nothing prejudicial.  
3       So do you want to put them into evidence now,  
4       or do you want to call your witness now and  
5       deal with the documents later?

6                   MR. CHUN: I will call witness  
7       first.

8                   CHAIRPERSON MILLER: Okay. All  
9       right.

10                  MR. RIVERO: I need to object to  
11       this because I believe the witness was just  
12       sworn it and is in the middle of testimony.

13                  CHAIRPERSON MILLER: That's true.

14                  MR. RIVERO: I'm not sure how the  
15       witness in the middle of testimony can call  
16       another witness to testify.

17                  CHAIRPERSON MILLER: It's true.  
18       Oh, it's true. That's a good point. That's  
19       a very good point. Okay. Yes, okay.

20                  MR. RIVERO: So once he finishes  
21       his testimony --

22                  CHAIRPERSON MILLER: That's good.

1 Good, good. All right. Thank you.

2 So Mr. Rivero is correct. I  
3 forgot you were actually sworn in and  
4 testifying about -- just like Mr. Molloy was  
5 testifying, you were testifying about your  
6 case. If you're finished testifying, then Mr.  
7 Rivero has an opportunity to cross-examine  
8 you, and so do the Board Members before we go  
9 to your next witness.

10 MR. CHUN: But my witness is not  
11 available, or what?

12 CHAIRPERSON MILLER: What?

13 MR. CHUN: I have bring my  
14 witness.

15 CHAIRPERSON MILLER: After we're  
16 finished with you. You're a witness and we  
17 take one witness at a time.

18 MR. CHUN: Okay.

19 CHAIRPERSON MILLER: So have you  
20 finished your testimony?

21 MR. CHUN: Okay. That's -- yes,  
22 ma'am.

1 CHAIRPERSON MILLER: Okay. Then  
2 Mr. Rivero may now cross-examine you on your  
3 testimony.

4 MR. CHUN: Okay.

5 CHAIRPERSON MILLER: Thank you,  
6 Mr. Rivero.

7 MR. RIVERO: Thank you. Mr. Chun?

8 MR. CHUN: Yes, ma'am?

9 MR. RIVERO: Mr. Chun, you were at  
10 the store when the investigators came in,  
11 right?

12 MR. CHUN: Yes.

13 MR. RIVERO: And you were working  
14 with them on the regulatory inspection, right?

15 MR. CHUN: Yes, I am.

16 MR. RIVERO: Okay. And you heard  
17 Mr. Molloy, Investigator Molloy say --

18 CHAIRPERSON MILLER: Is that loud  
19 enough for you?

20 Mr. Chun, you need to speak up.

21 MR. RIVERO: And you heard  
22 investigator --

1 MR. CHUN: You need to -- excuse  
2 me. You need to speak up with your answers so  
3 that the court reporter can hear.

4 MR. CHUN: Yes. Oh, yes.

5 CHAIRPERSON MILLER: So you just  
6 said yes to those two questions. Okay.

7 MR. RIVERO: And you went behind  
8 the counter when the customer came in, right?  
9 Because you heard that Mr. Molloy said he saw  
10 you go behind the counter, right?

11 MR. CHUN: (No audible response.)

12 CHAIRPERSON MILLER: Wait. And  
13 I'm sorry, a nod isn't really good enough.  
14 You have to say yes or no for the record.

15 MR. CHUN: Yes, I was behind the  
16 counter.

17 MR. RIVERO: You were behind the  
18 counter.

19 MR. CHUN: Yes.

20 MR. RIVERO: Yes. And you heard  
21 Mr. Molloy testify that a customer came in and  
22 gave you money while you were behind the

1 counter, right?

2 MR. CHUN: I'm sorry, what?

3 MR. RIVERO: Mr. Molloy said that  
4 a customer came in and you were behind the  
5 counter and the customer gave you some money.  
6 Yes, is that correct?

7 MR. CHUN: What customer?

8 MR. RIVERO: Mr. Molloy testified  
9 that you were with Mr. Molloy in the  
10 investigation. You stepped behind the  
11 counter. A customer came in. Gave you money.  
12 You asked about it and the customer pointed to  
13 a piece of paper. Correct? That happened,  
14 right?

15 MR. CHUN: (No audible response.)

16 MR. RIVERO: It did not happen, or  
17 it did happen?

18 MR. CHUN: No, I didn't take  
19 money.

20 MR. RIVERO: You did not take  
21 money?

22 MR. CHUN: I didn't take money.

1 MR. RIVERO: And you didn't give  
2 any money back?

3 MR. CHUN: No, I didn't.

4 MR. RIVERO: You didn't?

5 MR. CHUN: I -- just he leave the  
6 money on the count. He go.

7 MR. RIVERO: You didn't -- you  
8 opened the cash register, didn't you?

9 MR. CHUN: No, this is a -- it's a  
10 turntable. You -- did you see my store? This  
11 is bulletproof with turntable. He leave it in  
12 the turntable. Then he left.

13 MR. RIVERO: And what happened  
14 with the money? You took it, right?

15 MR. CHUN: I not took it. I just  
16 leave it like that.

17 MR. RIVERO: You left the money  
18 where?

19 MR. CHUN: In the turntable.

20 MR. RIVERO: You left the money in  
21 the turntable?

22 MR. CHUN: Yes.

1 MR. RIVERO: And the customer  
2 left?

3 MR. CHUN: Yes.

4 MR. RIVERO: Did the customer say  
5 anything to you?

6 MR. CHUN: No.

7 MR. RIVERO: He just came in, put  
8 money in the turntable and left?

9 MR. CHUN: Yes.

10 MR. RIVERO: You heard  
11 Investigator Molloy say that the customer came  
12 in, gave you money, you put it in the cash  
13 register --

14 MR. CHUN: I didn't --

15 MR. RIVERO: -- and you gave money  
16 back, right?

17 MR. CHUN: That is wrong. I  
18 didn't put the cash register. When he left,  
19 still \$2 over there. I'm just put inside  
20 because next customer.

21 MR. RIVERO: When you asked what  
22 the money was for, the customer pointed to a

1 piece of paper, isn't that right?

2 MR. CHUN: Okay. It's -- I don't  
3 know what -- I don't know, but, you know, the  
4 -- I didn't know what's going on, why he gave  
5 it to me -- \$2 to me.

6 MR. RIVERO: That's true.

7 MR. CHUN: I didn't know.

8 MR. RIVERO: That's true.

9 Investigator Molloy said the same thing, that  
10 you didn't know.

11 MR. CHUN: Yes.

12 MR. RIVERO: Which is why the  
13 customer pointed to a piece of paper. Isn't  
14 that right?

15 MR. CHUN: No, I don't know.

16 MR. RIVERO: The customer did not  
17 point to a piece of paper?

18 MR. CHUN: No. No.

19 MR. RIVERO: You don't know what  
20 we're talking about?

21 MR. CHUN: No. No, I don't know  
22 about the piece paper. I don't know about

1 piece paper. He just leave. I'm going to  
2 talk to investigator. He just blah, blah,  
3 blah, blah at the customer. And the \$2. All  
4 confusion.

5 MR. RIVERO: You had a  
6 conversation with Investigator Parker who said  
7 that you cannot have sale on credit. It's  
8 violation. Didn't Investigator Parker tell  
9 you that?

10 MR. CHUN: The violation is --

11 MR. RIVERO: The question is did  
12 Investigator Parker tell you that? That's the  
13 question. Yes or no is the answer.

14 MR. CHUN: Okay. Investigator  
15 Parker said --

16 MR. RIVERO: He said that?

17 MR. CHUN: -- he said it's a  
18 violation. He said it's -- yes, I heard about  
19 that. Yes.

20 MR. RIVERO: Okay. All right. No  
21 further questions.

22 CHAIRPERSON MILLER: Okay. Are

1       there Board questions?

2                   (No audible response.)

3                   CHAIRPERSON MILLER: I didn't  
4       totally understand your testimony, Mr. Chun,  
5       with respect to your employee. Did you ask  
6       your employee whether he had sold vodka or  
7       credit, or on a tab, or let somebody have it  
8       without paying in full?

9                   MR. CHUN: No. He said no.

10                  CHAIRPERSON MILLER: He said no?

11                  MR. CHUN: No. He said he never  
12       gave it to credit any person. He cannot. He  
13       have no right. At the time he said no.

14                  CHAIRPERSON MILLER: Is he your  
15       only employee?

16                  MR. CHUN: No, we have one more  
17       employee. Two employee. At the time my wife  
18       will get the big operation. I couldn't stay  
19       in the store long time. But I have one  
20       manager license person stand over there. But  
21       this is time is the guy who's Bob Adler and he  
22       is a friend, a long-time friend. He deal with

1 the \$2, he and the customer.

2 CHAIRPERSON MILLER: Did you ask  
3 him about the \$2?

4 MR. CHUN: Ask who? Yes, I ask  
5 him why.

6 CHAIRPERSON MILLER: Right. What  
7 did he say?

8 MR. CHUN: He said I didn't give  
9 to credit. I gave him my \$2 to him. Then  
10 he's going to pay me back next day or later.

11 CHAIRPERSON MILLER: Pay back for  
12 what?

13 MR. CHUN: The \$2.

14 CHAIRPERSON MILLER: Oh, he loaned  
15 him \$2?

16 MR. CHUN: He loaned the \$2.

17 CHAIRPERSON MILLER: That's what  
18 he said?

19 MR. CHUN: Yes.

20 CHAIRPERSON MILLER: Okay. Did  
21 you know that you're not allowed to sell  
22 alcohol on credit?

1 MR. CHUN: No.

2 CHAIRPERSON MILLER: You didn't  
3 know that?

4 MR. CHUN: Basically repeat for  
5 law we cannot give credit. If I give a  
6 credit, I lost customer. I lost money. And  
7 most of drunk person can't remember what I  
8 gave to them, so that is a no good business.

9 CHAIRPERSON MILLER: So you don't  
10 do that anyway because it's bad business?

11 MR. CHUN: No, I don't want my  
12 business to be bad.

13 CHAIRPERSON MILLER: Okay. Any  
14 other questions?

15 (No audible response.)

16 CHAIRPERSON MILLER: Do you know  
17 that customer? Was he a regular customer who  
18 paid the \$2?

19 MR. CHUN: Yes, he live around our  
20 store, so I saw him a lot of time.

21 CHAIRPERSON MILLER: Okay. All  
22 right. I don't have any other questions.

1                   Mr. Rivero, do you have any  
2 follow-up questions?

3                   MR. RIVERO: No.

4                   CHAIRPERSON MILLER: Okay. So,  
5 unless you have something more to add right  
6 now, that concludes your testimony and you can  
7 now act kind of like the lawyer and call your  
8 witness, if you are ready to do that.

9                   MR. CHUN: Okay. Mr. Anthony is  
10 my witness.

11                  CHAIRPERSON MILLER: Okay.

12                  MR. CALDWELL: Good afternoon.

13                  CHAIRPERSON MILLER: Good  
14 afternoon. I need to swear you in, sir. Do  
15 you swear to tell the truth, the whole truth,  
16 nothing but the truth?

17                  MR. CALDWELL: I do.

18                  CHAIRPERSON MILLER: Thank you.  
19 So you should first start with introducing  
20 yourself, your name and your address.

21                  MR. CALDWELL: My name is Anthony  
22 Caldwell.

1 CHAIRPERSON MILLER: Okay.

2 MR. CALDWELL: You said address,  
3 too?

4 CHAIRPERSON MILLER: Yes.

5 MR. CALDWELL: 4822 10th Street,  
6 N.E., Washington, D.C.

7 CHAIRPERSON MILLER: Okay. Thank  
8 you. All right. Now he's your witness, sir.

9 MR. CHUN: I ask him?

10 CHAIRPERSON MILLER: Yes.

11 MR. CHUN: This is my first time.

12 CHAIRPERSON MILLER: That's right.

13 MR. CHUN: I don't know how to  
14 ask. But, Anthony, did you purchase for the  
15 liquor from Michigan Liquor Store?

16 MR. CALDWELL: Yes.

17 MR. CHUN: Okay. The last year,  
18 July 28 you buy \$2. That is you pay \$2 for  
19 this -- that liquor from my store?

20 MR. CALDWELL: Yes.

21 MR. CHUN: How can you get the \$2  
22 at the time? Have you have \$2 at the time?

1 MR. CALDWELL: I borrowed it from  
2 Robert.

3 MR. CHUN: Who is Robert?

4 MR. CALDWELL: Robert.

5 MR. CHUN: Who is Robert?

6 MR. CALDWELL: He works at the  
7 store and is a friend of mine.

8 MR. CHUN: Okay. This is your  
9 friend?

10 MR. CALDWELL: Yes.

11 MR. CHUN: Okay. And why you give  
12 it to me -- when did you pay for \$2 for that?

13 MR. CALDWELL: The day before.

14 MR. CHUN: Okay. I don't know  
15 it's, you know, for or not. You don't know,  
16 that's why ask him. He is the person who at  
17 the time --

18 CHAIRPERSON MILLER: Wait. Wait,  
19 you can't really testify. Are you saying  
20 that's all the questions you had?

21 MR. CHUN: Yes, that's all I had.

22 CHAIRPERSON MILLER: Oh, are you

1 identifying who he is?

2 MR. CHUN: Who?

3 CHAIRPERSON MILLER: I'm sorry, I  
4 cut you off. Were you identifying who he is?

5 MR. CHUN: The guy?

6 CHAIRPERSON MILLER: Yes.

7 MR. CHUN: Yes, he's Anthony  
8 Caldwell. He's -- at the time he have -- he  
9 was there, leave \$2 on my store.

10 CHAIRPERSON MILLER: Okay.

11 MR. CHUN: Yes.

12 CHAIRPERSON MILLER: Mr. Rivero?

13 MR. RIVERO: Thank you.

14 CHAIRPERSON MILLER: Any

15 questions?

16 MR. RIVERO: I think I have a few.

17 CHAIRPERSON MILLER: Okay.

18 MR. RIVERO: Mr. Caldwell?

19 MR. CALDWELL: Yes?

20 MR. RIVERO: How long have you  
21 been a customer of the store?

22 MR. CALDWELL: Probably about

1 five, six years.

2 CHAIRPERSON MILLER: Can you both  
3 speak up a little bit?

4 MR. CALDWELL: Okay. I'm sorry.

5 CHAIRPERSON MILLER: Yes. How  
6 long have you been a customer?

7 MR. CALDWELL: Five, six years.

8 CHAIRPERSON MILLER: Okay.

9 MR. RIVERO: Okay. You testified  
10 something about \$2.

11 MR. CALDWELL: Yes.

12 MR. RIVERO: What were you talking  
13 about?

14 MR. CALDWELL: I borrowed \$2 from  
15 Robert.

16 MR. RIVERO: From Robert who?

17 MR. CALDWELL: I don't know  
18 Robert's last name.

19 MR. CHUN: Robert Adler.

20 CHAIRPERSON MILLER: No, I'm  
21 sorry. Okay.

22 MR. CALDWELL: I'm sorry.

1 CHAIRPERSON MILLER: That's all  
2 right. You don't know.

3 MR. RIVERO: Objection.

4 MR. CHUN: Okay.

5 CHAIRPERSON MILLER: I know.  
6 Okay. You can't -- he's the witness now.  
7 Okay.

8 MR. RIVERO: You borrowed \$2 from  
9 Robert?

10 MR. CALDWELL: Yes.

11 MR. RIVERO: Okay. And when did  
12 you borrow \$2?

13 MR. CALDWELL: It was like the day  
14 before I came back to give him the \$2.

15 MR. RIVERO: The day before you  
16 came back?

17 MR. CALDWELL: Yes.

18 MR. RIVERO: Okay. And you  
19 borrowed \$2 because?

20 MR. CALDWELL: I was short. I  
21 asked him for -- to borrow \$2.

22 CHAIRPERSON MILLER: I'm sorry,

1       could you repeat that answer? I didn't hear  
2       it.

3                   MR. CALDWELL: I was short, so I  
4       asked him to borrow \$2.

5                   CHAIRPERSON MILLER: Okay.

6                   MR. RIVERO: What was the \$2 for?

7                   MR. CALDWELL: A pint -- I mean a  
8       half-pint of Velicoff.

9                   MR. RIVERO: A half-pint of  
10       Velicoff? Okay. Now I don't know what that  
11       is, so please help me understand what Velicoff  
12       is.

13                   MR. CALDWELL: Vodka.

14                   MR. RIVERO: Okay. All right.

15                   CHAIRPERSON MILLER: Vodka? Okay.

16                   MR. RIVERO: And did Robert lend  
17       you the \$2?

18                   MR. CALDWELL: Yes.

19                   MR. RIVERO: Okay. And so let's  
20       pretend we're there and you're standing there  
21       and Robert's there and he lends you the \$2.  
22       When he gave you the \$2, then what happened?

1                   MR. CALDWELL: I asked for a pint  
2 of Velicoff and I paid him back with the \$2  
3 that he lent me.

4                   MR. RIVERO: Okay.

5                   MR. CALDWELL: And told him --

6                   MR. RIVERO: All right. But you  
7 said you came like the next day or the day  
8 after that, right?

9                   MR. CALDWELL: The next day I came  
10 back --

11                   MR. RIVERO: Okay. All right.

12                   MR. CALDWELL: -- to return the  
13 money.

14                   MR. RIVERO: All right. But I'm  
15 trying to understand your story, right? So  
16 you're there at the store and you ask Robert  
17 for \$2?

18                   MR. CALDWELL: Yes.

19                   MR. RIVERO: Robert gives you \$2?

20                   MR. CALDWELL: Yes.

21                   MR. RIVERO: Okay. And then you  
22 buy the vodka?

1 MR. CALDWELL: Yes.

2 MR. RIVERO: Okay. So then you by  
3 the vodka. All right. You buy the vodka with  
4 Robert's \$2?

5 MR. CALDWELL: Yes.

6 MR. RIVERO: All right. And then  
7 you went back?

8 MR. CALDWELL: The next day, yes.

9 MR. RIVERO: Okay. And what  
10 happened when you went back the next day?  
11 Were you by yourself, or do you recall seeing  
12 investigators there?

13 MR. CALDWELL: I didn't know who  
14 they were.

15 MR. RIVERO: Okay. You didn't  
16 know who they were, but there were some people  
17 there?

18 MR. CALDWELL: Yes.

19 MR. RIVERO: Okay. And then what  
20 happened?

21 MR. CALDWELL: I told Mike that  
22 this was for --

1 MR. RIVERO: You told who?

2 MR. CALDWELL: Mike. We call him  
3 Mike.

4 MR. RIVERO: Okay.

5 MR. CHUN: My name is Mike, too.

6 CHAIRPERSON MILLER: Okay.

7 MR. RIVERO: All right. You mean  
8 the owner of the store?

9 MR. CALDWELL: Yes.

10 MR. RIVERO: Okay. When you told  
11 him that it was for --

12 MR. CALDWELL: Robert.

13 MR. RIVERO: -- Robert, you said?

14 MR. CALDWELL: Yes.

15 MR. RIVERO: Yes. Was there a  
16 piece of paper? You saw a piece of paper by  
17 any chance?

18 MR. CALDWELL: Yes.

19 MR. RIVERO: Okay. Tell us about  
20 that piece of paper.

21 MR. CALDWELL: I left a note so  
22 that Robert would remember that he loaned me

1 the money.

2 MR. RIVERO: Where was that note?

3 MR. CALDWELL: On the counter.

4 MR. RIVERO: Now describe the  
5 counter. There's some sort of glass, right?

6 MR. CALDWELL: Yes.

7 MR. RIVERO: Tell us about that  
8 glass.

9 MR. CALDWELL: Well, one part has  
10 open and the other, like I say, has a  
11 turnstile.

12 MR. RIVERO: Okay. Where was that  
13 note?

14 MR. CALDWELL: In between the two  
15 on the counter.

16 MR. RIVERO: Was it on the other  
17 side of the glass from you?

18 MR. CALDWELL: Yes.

19 MR. RIVERO: Where did you put the  
20 money?

21 MR. CALDWELL: On the counter.

22 MR. RIVERO: On the counter?

1 MR. CALDWELL: And I said this is  
2 for Robert.

3 MR. RIVERO: There were other  
4 people standing near you, right, at the time?

5 MR. CALDWELL: There was one  
6 standing beside me, yes.

7 MR. RIVERO: Okay. And did that  
8 person ask you about what you were doing?

9 MR. CALDWELL: Yes.

10 MR. RIVERO: What did you say?

11 MR. CALDWELL: That I was giving  
12 Robert back his money.

13 MR. RIVERO: Giving Robert?

14 MR. CALDWELL: Yes.

15 MR. RIVERO: Thank you. No  
16 further questions.

17 CHAIRPERSON MILLER: Board  
18 questions? Yes, Mr. Brooks?

19 MEMBER BROOKS: Sir, have you ever  
20 borrowed money from Robert before?

21 MR. CALDWELL: Yes.

22 MEMBER BROOKS: And how would you

1 pay him back?

2 MR. CALDWELL: I would bring it  
3 back to him. Normally he's there though.

4 MEMBER BROOKS: Okay. And you  
5 would give him cash money back, of course?

6 MR. CALDWELL: Yes.

7 MEMBER BROOKS: And how much would  
8 you borrow in the past?

9 MR. CALDWELL: I would say \$5,  
10 besides the 2, so total 7.

11 MEMBER BROOKS: Seven total?

12 MR. CALDWELL: Yes.

13 MEMBER BROOKS: All right. Thank  
14 you. And what did you borrow it for?

15 MR. CALDWELL: To buy vodka.

16 MEMBER SILVERSTEIN: Pardon?

17 MR. CALDWELL: To buy vodka.

18 MEMBER BROOKS: All right. Thank  
19 you, Madam Chair.

20 CHAIRPERSON MILLER: Okay.

21 Others?

22 MEMBER ALBERTI: Just a quick

1 question.

2 CHAIRPERSON MILLER: Yes.

3 MEMBER ALBERTI: Sir, Mr.

4 Caldwell, who is Robert? I'm not sure I  
5 understood who Robert was.

6 MR. CALDWELL: He's a friend of  
7 mine that works at the liquor store.

8 MEMBER ALBERTI: So he works at  
9 the liquor store?

10 MR. CALDWELL: Yes.

11 MEMBER ALBERTI: Do you know if  
12 Robert has lent anyone else money?

13 MR. CALDWELL: Not that I know of.

14 MEMBER ALBERTI: Okay. Thank you.  
15 No other questions.

16 CHAIRPERSON MILLER: I'd like to  
17 also welcome Mr. Jones to the dais, a Board  
18 Member.

19 MEMBER JONES: Thank you. A quick  
20 question.

21 CHAIRPERSON MILLER: Yes?

22 MR. CALDWELL: Yes, sir?

1                   MEMBER JONES: How did you and  
2 Robert become friends? What's the nature of  
3 your relationship?

4                   MR. CALDWELL: From going there or  
5 seeing him on the streets.

6                   MEMBER JONES: So how did you  
7 first meet Robert?

8                   MR. CALDWELL: From going to the  
9 store.

10                  MEMBER JONES: So you met him  
11 through your patronage of the establishment?

12                  MR. CALDWELL: Yes.

13                  MEMBER JONES: And the only way  
14 you know him and established a friendship with  
15 is through his working at the establishment?

16                  MR. CALDWELL: Or sometimes I see  
17 him on the bus.

18                  MEMBER JONES: You see him on the  
19 bus sometimes?

20                  MR. CALDWELL: Yes.

21                  MEMBER JONES: Okay. Do you ever  
22 hang out at his home? Do you go the same

1 places or the same church?

2 MR. CALDWELL: No. No.

3 MEMBER JONES: So the only time  
4 you interact with him is if you go to the  
5 store and sit with him at the store?

6 MR. CALDWELL: Well, like I said,  
7 I see him on the bus.

8 MEMBER JONES: See him on the bus?  
9 So is that a designed meeting when you see him  
10 on the bus, or is it random? Is it  
11 accidental?

12 MR. CALDWELL: No, it's random.

13 MEMBER JONES: Random? So you  
14 don't plan to necessarily see him on the bus?

15 MR. CALDWELL: No.

16 MEMBER JONES: Okay. So the only  
17 times you really plan to see your friend  
18 Robert is at the store?

19 MR. CALDWELL: Yes.

20 MEMBER JONES: Okay. Thank you.

21 Thank you, Madam Chair.

22 CHAIRPERSON MILLER: Can you tell

1 me what position he works in at the store?

2 MR. CALDWELL: I'm not sure what  
3 his title is. He works behind the counter.

4 CHAIRPERSON MILLER: You don't  
5 know if he's a manager or not?

6 MR. CALDWELL: Not that I know of.

7 CHAIRPERSON MILLER: Okay. Did  
8 you say that the vodka costs \$7?

9 MR. CALDWELL: No, that's the  
10 total amount I have borrowed from him on  
11 different occasions.

12 CHAIRPERSON MILLER: Oh, that's  
13 the most amount you've borrowed?

14 MR. CALDWELL: Yes. Yes.

15 CHAIRPERSON MILLER: So this time  
16 you borrowed \$2?

17 MR. CALDWELL: Yes.

18 CHAIRPERSON MILLER: And what did  
19 the vodka cost?

20 MR. CALDWELL: The vodka was like  
21 \$3. I had a dollar. So I borrowed two from  
22 him.

1 CHAIRPERSON MILLER: Okay. So  
2 you've done this in the past?

3 MR. CALDWELL: As far as borrow  
4 money from him? Yes.

5 CHAIRPERSON MILLER: Yes.

6 MR. CALDWELL: Yes.

7 CHAIRPERSON MILLER: Just to buy  
8 the liquor?

9 MR. CALDWELL: Yes.

10 CHAIRPERSON MILLER: Okay. I  
11 don't have any other questions. Anybody else?  
12 Mr. Rivero?

13 (No audible response.)

14 CHAIRPERSON MILLER: Okay. Mr.  
15 Alberti?

16 MEMBER ALBERTI: Another quick  
17 question, yes.

18 CHAIRPERSON MILLER: Yes.

19 MEMBER ALBERTI: In the past have  
20 you ever -- when you repay Robert, have you  
21 ever given the money to Mike?

22 MR. CALDWELL: No, normally

1 Robert's there. That day he wasn't there.

2 MEMBER ALBERTI: But in the  
3 past --

4 MR. CALDWELL: Yes.

5 MEMBER ALBERTI: -- have you ever  
6 given it to Mike --

7 MR. CALDWELL: No.

8 MEMBER ALBERTI: -- to repay  
9 Robert? So this is the first time you've done  
10 that?

11 MR. CALDWELL: Yes.

12 MEMBER ALBERTI: Okay. Thank you.

13 MR. CALDWELL: You're welcome.

14 CHAIRPERSON MILLER: Okay. Mr.  
15 Rivero?

16 MR. RIVERO: Mr. Caldwell, you  
17 indicated that it was \$3 vodka, that you had  
18 a dollar and you --

19 MR. CALDWELL: Yes.

20 MR. RIVERO: -- borrowed two from  
21 Robert?

22 MR. CALDWELL: Yes.

1 MR. RIVERO: Three dollar vodka  
2 bottle?

3 MR. CALDWELL: Yes.

4 MR. RIVERO: A small bottle.

5 MR. RIVERO: It couldn't have been  
6 a very big bottle, huh?

7 MR. CALDWELL: No. No.

8 MR. RIVERO: No? Okay. But you  
9 said that other times the most you borrowed at  
10 any given time was \$7?

11 MR. CALDWELL: Yes.

12 MR. RIVERO: Is that for a bigger  
13 vodka bottle than --

14 MR. CALDWELL: Yes.

15 MR. RIVERO: -- the \$3 bottle?

16 MR. CALDWELL: Yes.

17 MR. RIVERO: And how much is that  
18 bottle?

19 MR. CALDWELL: About five.

20 MR. RIVERO: But you borrowed --

21 MR. CALDWELL: With tax.

22 MR. RIVERO: But you borrowed \$7

1 for the bottle, and the price tag is 5. How  
2 does that work out?

3 MR. CALDWELL: I bought \$2 one  
4 time, \$5 another time. That's why I said a  
5 total of \$7.

6 MR. RIVERO: Okay. What is the  
7 most you've ever borrowed from Robert at any  
8 given time?

9 MR. CALDWELL: The \$7.

10 MR. RIVERO: Okay. All right.  
11 Moving along, you said it took you two days to  
12 go back.

13 MR. CALDWELL: No, the next day.

14 MR. RIVERO: The next day?

15 MR. CALDWELL: Yes.

16 MR. CHUN: Can I --

17 CHAIRPERSON MILLER: Not yet.

18 Not. You'll have a chance to ask questions.

19 MR. RIVERO: What is the longest  
20 it has taken you to come back and give Robert  
21 some money that he -- that you --

22 MR. CALDWELL: Two days.

1 MR. RIVERO: Two days? And this  
2 money was only for alcohol, right?

3 MR. CALDWELL: Yes.

4 MR. RIVERO: Okay. Thank you.

5 CHAIRPERSON MILLER: What did you  
6 say?

7 MR. RIVERO: The money is only for  
8 alcohol.

9 CHAIRPERSON MILLER: Yes, okay.

10 MR. RIVERO: Not chips or  
11 something else.

12 CHAIRPERSON MILLER: Okay.

13 MR. RIVERO: Okay. Thank you.

14 CHAIRPERSON MILLER: Mr. Chun, now  
15 you can ask follow-up questions.

16 MR. CHUN: Yes, the \$5 --

17 CHAIRPERSON MILLER: Not testify.  
18 You can ask your witness questions.

19 MR. CHUN: Okay. The \$5 you owe  
20 him is the same day or different day?

21 MR. CALDWELL: Different day,  
22 right?

1 MR. CHUN: Okay. At the time you  
2 only borrow \$2 from him?

3 MR. CALDWELL: Yes.

4 MR. CHUN: Okay. That's it.  
5 That's all.

6 CHAIRPERSON MILLER: Okay. Then  
7 your witness can be excused, if you don't have  
8 any other questions.

9 MR. CHUN: No, I'm done.

10 CHAIRPERSON MILLER: Okay.

11 MR. CHUN: Yes.

12 CHAIRPERSON MILLER: Thank you  
13 very much.

14 MR. CHUN: Thank you. This is for  
15 the two person for the statement. I don't  
16 know this is work or not.

17 CHAIRPERSON MILLER: Okay.  
18 They're statements of whom?

19 MR. CHUN: The one is employee and  
20 the one is Mr. Anthony Caldwell. He doing  
21 what to do at the time.

22 CHAIRPERSON MILLER: The one who

1 just testified?

2 MR. CHUN: Yes.

3 CHAIRPERSON MILLER: Is it  
4 different from his statement, because --

5 MR. CHUN: He's the same person  
6 that I ask what's going on. Give it to you  
7 statement. I'm going to tender to the ABC  
8 Board.

9 MR. RIVERO: Do you mind if I see  
10 it?

11 CHAIRPERSON MILLER: Oh,  
12 absolutely you're going to see it before --  
13 you know, Mr. Rivero can see these and then  
14 raise any objections. And then I'll see them,  
15 too. But --

16 MR. RIVERO: Small indulgence.

17 CHAIRPERSON MILLER: If you have a  
18 live witness, then there's no -- well, I'll  
19 let Mr. Rivero object if he -- there's less  
20 reason to admit a written statement if your  
21 witness is here to present testimony.

22 MR. CHUN: I don't know --

1 CHAIRPERSON MILLER: The other one  
2 is --

3 MR. CHUN: I don't know the  
4 situation, but that is true what he says, so  
5 that's why I bring up here. But there is a  
6 variable for qualify or not. I don't know  
7 about --

8 CHAIRPERSON MILLER: Okay.

9 MR. CHUN: -- or you accept or  
10 not. That's your --

11 CHAIRPERSON MILLER: Okay.

12 MR. RIVERO: We would have an  
13 unusual objection on grounds of relevance,  
14 because this note by Mr. Caldwell, while it  
15 essentially says the same thing that he  
16 testified, which is, you know, not necessarily  
17 an relevance objection, the letter contains  
18 Mr. Caldwell's Social Security number.

19 CHAIRPERSON MILLER: Yes, okay.

20 MR. RIVERO: I will object to  
21 relevancy on those grounds for inclusion.

22 CHAIRPERSON MILLER: Oh, can I see

1 it? Okay.

2 MR. RIVERO: I'm reading the other  
3 one now.

4 CHAIRPERSON MILLER: My  
5 assistant's going to take that so I can take  
6 a look at it as well before I rule on it, yes.

7 I'm not inclined to admit this  
8 into evidence. I think that we had Mr.  
9 Caldwell here as a live witness. He was  
10 subject to cross-examination. And I think  
11 that Mr. Rivero makes a good point. This is  
12 a public record and we probably don't even  
13 want his Social Security number in this  
14 record. So I'm not going to admit this note  
15 from Mr. Caldwell.

16 Okay. Now the second one is I  
17 guess from someone who is not here?

18 MR. RIVERO: Right.

19 CHAIRPERSON MILLER: Okay.

20 MR. RIVERO: I think I need to lay  
21 an objection at this moment because there  
22 hasn't been sufficient foundation established

1 for this letter. It appears to be from the  
2 employee in question, but you know, we have no  
3 reason or understanding of why this person  
4 isn't here to testify. I don't know if this  
5 is in fact the person's handwriting. We don't  
6 know really anything about this document in  
7 terms of its foundation, so I will object on  
8 that basis.

9 MR. CHUN: Okay.

10 CHAIRPERSON MILLER: I'd just like  
11 to take a look at it, if you already -- do you  
12 need it right now?

13 MR. CHUN: No.

14 CHAIRPERSON MILLER: Okay.

15 MR. CHUN: And it's true the guy  
16 willing to standing here, but he's on the  
17 Marriott Hotel on the way training, looking  
18 for job. So I ask him stand here. He said  
19 the training person, you know, you didn't --  
20 you couldn't one day skip either. You have to  
21 attend two, three months straight. So I  
22 couldn't bring up here. But he -- that is the

1 true.

2 CHAIRPERSON MILLER: Okay. So  
3 you've laid foundation as to why Mr. Adler  
4 could not be here, because he has to be in  
5 training and couldn't take time away from  
6 that, correct?

7 MR. CHUN: Yes, ma'am.

8 CHAIRPERSON MILLER: And Mr.  
9 Rivero raised a concern about the reliability  
10 of this letter. How do we know that this is  
11 actually from your employee? So can you  
12 address that at all?

13 MR. CHUN: Okay. But I see he  
14 write it down, hand it to me. That's all I  
15 can say.

16 CHAIRPERSON MILLER: You saw him  
17 write this?

18 MR. CHUN: Yes.

19 CHAIRPERSON MILLER: It's your  
20 testimony under oath that your employee wrote  
21 this? And when did he write it?

22 MR. CHUN: Yes, he -- yes, ma'am.

1                   CHAIRPERSON MILLER:  When did he  
2 write it?  When?

3                   MR. CHUN:  I think it's -- I keep  
4 asking.  Because we don't need the statement  
5 at the time, but I keep asking come to me and  
6 verify from here.  But he ask for the  
7 training.  So he found he couldn't go.  That's  
8 why.  Lately he write it down, hand it to me.  
9 That's all he can do that.

10                  CHAIRPERSON MILLER:  Well, okay.  
11 But it's not under oath.  It's not notarized.  
12 It's your testimony that he wrote it.  I think  
13 that we could let it in, but it would be --  
14 what we say sometimes is we'll give it the  
15 weight that it deserves.  So it's not given as  
16 much weight as if the person were here  
17 testifying subject to cross-examination under  
18 oath.  This isn't even under oath.  It's  
19 relevant, but I think that's what we'll do.  
20 We'll admit it and give it the weight that --

21                  MR. CHUN:  Yes, I understand.

22                  CHAIRPERSON MILLER:  -- it

1 deserves. And do you have any other questions  
2 for Mr. Chun with respect to the circumstances  
3 of this letter?

4 MR. RIVERO: Only that I'd like a  
5 copy of it to use for closing.

6 CHAIRPERSON MILLER: Yes. Okay.

7 MR. RIVERO: That's all.

8 CHAIRPERSON MILLER: Okay. All  
9 right. Was there anything else? Any other  
10 document?

11 MR. CHUN: Any other question? I  
12 don't have any.

13 CHAIRPERSON MILLER: Okay. Do you  
14 have a closing? I'm sorry, do you have a  
15 closing argument?

16 MR. RIVERO: I will just as soon  
17 as I --

18 CHAIRPERSON MILLER: Get the  
19 letter?

20 MR. RIVERO: -- get a copy of that  
21 letter.

22 CHAIRPERSON MILLER: Okay. We'll

1 wait for that.

2 So that completes your case  
3 though? You don't have any other witnesses or  
4 documents?

5 MR. CHUN: No question.

6 CHAIRPERSON MILLER: Okay. So  
7 we're just waiting for Ms. Walker to make a  
8 copy of that letter. And then it will be  
9 closing arguments, at which time Mr. Rivero  
10 will go first and give his closing. And then  
11 you'll give your closing summarizing if you  
12 want what --

13 MR. CHUN: What that mean closing?

14 CHAIRPERSON MILLER: It means like  
15 you can -- now the evidence is in. You can  
16 make an argument as to why we should rule in  
17 your favor based on what we heard today in the  
18 hearing room.

19 MR. CHUN: Okay.

20 CHAIRPERSON MILLER: You don't  
21 have to, but you can. You'll hear Mr.  
22 Rivero's --

1 MR. CHUN: You mean the meeting is  
2 reserved to over this -- reserved to -- mean  
3 is final, right?

4 CHAIRPERSON MILLER: I'm sorry, I  
5 don't understand. What?

6 MR. CHUN: Okay. I'll wait for  
7 what's going on.

8 CHAIRPERSON MILLER: Okay. Mr.  
9 Rivero will go first, so you can see if you  
10 want to do something like he does.

11 MR. RIVERO: Great. Thank you.

12 CHAIRPERSON MILLER: Oh, you're  
13 ready?

14 MR. RIVERO: Yes, I am.

15 CHAIRPERSON MILLER: Okay.

16 MR. RIVERO: Thank you, Board  
17 Members. Well, this has been a very  
18 interesting hearing, because for starters we  
19 walked in here thinking, well, obviously you  
20 don't give a bottle away and expect payment  
21 the next day because clearly that's a sale on  
22 credit, not to be confused with credit cards,

1 right, which is legal tender, and the law  
2 forbids that. And we walk out of this hearing  
3 with a different impression, that being, if of  
4 course we believe the Licensee that the  
5 customer tendered full payment for the bottle,  
6 albeit with the assistance of an employee,  
7 right, who claims that his friendly  
8 assistance; because he calls Mr. Caldwell a  
9 friend, had nothing to do with his employer,  
10 Michigan Liquor.

11 Absent from the letter and from  
12 the writer who's not here to be cross-examined  
13 is the recognition that this relationship and  
14 this friendship and this transaction,  
15 everything revolves around vodka. Mr.  
16 Caldwell has a great fondness for vodka and  
17 he's a regular customer and the only reason  
18 why Mr. Caldwell comes back to the  
19 establishment to provide money is for these  
20 very specific purchase transaction.

21 So we could say strictly that if I  
22 give you a bottle and you give me no money,

1 but maybe the next day or even at the end of  
2 the day, that we have a sale on credit, which  
3 is prohibited. Or if we're clever, we can go  
4 around the letter of the law, right, and allow  
5 the sale, but have some reliable customer  
6 who's come in about five times, repay the  
7 employee. The employee, whose only purpose in  
8 the lending the money, his only purpose in  
9 lending the money is to facilitate a  
10 transaction for the liquor store. That's it.  
11 This is not charity at all. It's not  
12 Christmas. Mr. Caldwell didn't testify it was  
13 his birthday present either. The only purpose  
14 of this facilitation is to sell alcohol for  
15 the Licensee.

16 Now even if we take the Licensee's  
17 testimony at face value that he had no idea  
18 that this transaction was going on, we have a  
19 slight problem with the testimony of  
20 Investigator Molloy who indicated that the  
21 customer very clearly said I purchased alcohol  
22 yesterday and I'm paying for the money today

1 and the recollection of the Licensee, who  
2 under oath stated that, well, he never had any  
3 conversation with Mr. Caldwell when the  
4 Government questioned, but when the Board  
5 questioned, stated, well, I did have a  
6 conversation. Either you did or you didn't  
7 have a conversation. Right? Either you saw  
8 or you didn't see the piece of paper. Either  
9 the money was left on the counter or on the  
10 little turntable or somewhere.

11 Mr. Molloy's testimony is clear.  
12 No evidence has been introduced to attack the  
13 qualify of Mr. Molloy. Investigator Molloy,  
14 as a representative of the government, enjoys  
15 the presumption under law of regularity. In  
16 other words, Mr. Molloy was doing his job and  
17 his testimony ought to be credited unless  
18 there's something that contradicts it. And in  
19 fact the only contradiction, if indeed you can  
20 say that, is that this was somehow a loan by  
21 an employee to the customer. But again, the  
22 loan was only made for the purpose of

1 facilitating the transaction.

2           If you allow this to happen, this  
3 type of transaction, then really what's the  
4 point of having the D.C. Code provision that  
5 says there's no credit? So all I can do is  
6 say, well, you know, let me just give you the  
7 money out of my pocket. You come back  
8 tomorrow, right, as opposed to having that \$2  
9 hole in the cash register, which by the way,  
10 is an important part of this hearing today,  
11 because Investigator Molloy testified that the  
12 \$2, or whatever the amount was, because Mr.  
13 Molloy didn't see the exact amount of money,  
14 ended up in the cash register and then from  
15 the cash register some money went back to the  
16 hands of the customer, a detail which is  
17 absent from the other side.

18           So in closing I would like to urge  
19 the Board to deem this a credit transaction  
20 for the reason that we can't have these clever  
21 loopholes and find the Licensee in violation  
22 of the D.C. provision that prevents

1 transactions on credit, notwithstanding the  
2 fact that the Licensee may not have been aware  
3 or even intended to do this. But we impute  
4 upon the employer the actions of the employee  
5 because clearly he was acting as an agent of  
6 the business. They weren't long-time buddies  
7 and the only time that they really engaged  
8 each other, the employee and the customer, is  
9 simply for the purpose of a liquor  
10 transaction. Thank you very much.

11 CHAIRPERSON MILLER: Thank you.

12 Okay. Mr. Chun, do you wish to say some final  
13 words?

14 MR. CHUN: Yes. English is my  
15 mother language. I'm not speak good as much  
16 as this person. I simply talked. We don't  
17 have any credit system in my store. I told  
18 you if I give you credit to the person, I lost  
19 customer and I lost money.

20 The second thing, if I ask you  
21 though what I have a credit, he drunk already.  
22 We don't have a talk to him for the recovery

1 my money. Since 19 years I work over there,  
2 I respect, really, really respect for the  
3 regulation, all kind regulation. That is  
4 easiest way and comfortable life in this  
5 United State. So all kind regulation I  
6 respect.

7 And other thing, Robert Adler is  
8 my employee. He can't give any credit any  
9 other person because all merchandize belong to  
10 me. He don't have any right. That is not his  
11 job. So I gave him job already. Don't give  
12 to any credit anything wrong violation for the  
13 underage, any kind of notice and teaching. He  
14 can -- if he found -- I found him, he's going  
15 to fire. So at the time I couldn't fire  
16 because he not give to credit because he give  
17 to loan to him. That's why he still have  
18 under my employ.

19 So one other things, I don't give  
20 anybody credit from my store. That's why all  
21 kind -- what I -- all I can say that. That's  
22 all. That's my closing.

1                   CHAIRPERSON MILLER: Okay. Thank  
2 you. Okay. I'm going to close the record.  
3 That means that we're done taking evidence on  
4 this case. And I'm going to ask you if you  
5 want to file an proposed findings of fact and  
6 conclusions of law. That means if you wanted  
7 to file something in writing to the Board  
8 which would look at the evidence that was  
9 before us today and propose what findings the  
10 Board should make based on that evidence and  
11 what conclusions we should draw from it with  
12 respect to whether you violated the law or  
13 not. It's like a legal brief and most parties  
14 don't avail themselves of that right, but it  
15 is a right if you want it.

16                   So, Mr. Rivero, I'll ask you  
17 first.

18                   MR. RIVERO: The Government will  
19 waive and we will not submit findings of facts  
20 and conclusions of law.

21                   CHAIRPERSON MILLER: Okay.

22                   MR. CHUN: I don't fully

1 understand.

2 CHAIRPERSON MILLER: Okay.

3 MR. RIVERO: Brief indulgence,  
4 please?

5 CHAIRPERSON MILLER: Yes, that  
6 would be helpful. Thank you.

7 MR. RIVERO: So, back --

8 CHAIRPERSON MILLER: So, Mr.  
9 Rivero --

10 MR. CHUN: No, I --

11 CHAIRPERSON MILLER: You're not  
12 going to?

13 MR. CHUN: No, that's all. I'm  
14 done. I'm done.

15 CHAIRPERSON MILLER: Yes. Okay.

16 MR. RIVERO: I'm done, too.

17 CHAIRPERSON MILLER: Okay. Good.  
18 Good. That's what most people do. So, good?

19 All right. So then that brings  
20 this case to a conclusion. We'll have an  
21 written order for you within 90 days. That  
22 will be delivered by the Board in executive

1 session. I'm going to just read the  
2 instructions for that and have the Board vote  
3 on that.

4 As Chairperson of the Alcoholic  
5 Beverage Control Board for the District of  
6 Columbia and in accordance with Section 405 of  
7 the Open Meetings Amendment Act of 2010, I  
8 move that the ABC Board hold a closed meeting  
9 for the purpose of seeking legal advice from  
10 our counsel on Case No. 12-CMP-00383 per  
11 Section 405(b)(4) of the Open Meetings  
12 Amendment Act of 2010 and deliberating upon  
13 this case for the reasons cited in Section  
14 405(b)(13) of the Open Meetings Amendment Act  
15 of 2010. Is there a second?

16 MEMBER SILVERSTEIN: Second.

17 CHAIRPERSON MILLER: Mr.  
18 Silverstein has seconded the motion. I'll now  
19 take a roll call vote. Mr. Brooks?

20 MEMBER ALBERTI: Mr. Alberti  
21 approves.

22 MEMBER BROOKS: I agree.

1 CHAIRPERSON MILLER: Whoops. Mr.  
2 Brooks? Mr. Alberti? Did you approve, Mr.  
3 Alberti?

4 MEMBER ALBERTI: Yes.

5 CHAIRPERSON MILLER: All right.  
6 Ms. Miller approves. Mr. Silverstein?

7 MEMBER SILVERSTEIN: I agree.

8 CHAIRPERSON MILLER: And, Mr.  
9 Jones?

10 MEMBER JONES: I agree.

11 CHAIRPERSON MILLER: Okay. So  
12 motion has passed by a 5-0-0 vote. I hereby  
13 give notice that the ABC Board will hold a  
14 closed meeting in the ABC Board conference  
15 room today or next Wednesday pursuant to the  
16 Open Meetings Amendment Act of 2010 and issue  
17 an order within 90 days.

18 Thank you very much.

19 MR. CHUN: Thank you, Your Honor.

20 (Whereupon, the hearing was  
21 concluded at 2:38 p.m.)  
22

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